THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.27575 OF 2005

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Dated: 26-12-2005

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Between

V.S. Mohd, Hussain, S/o. V.S. Abdul Kareem

Saheb, Occ: Retd. Employee, R/o. 10/1049,

Trunk Road, Kadapa and others.

...PETITIONERS

AND

Commissioner, Municipal Corporation of

Kadapa, Kadapa District and others.

...RESPONDENTS

ORDER:

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Petitioners seek a Writ of Mandamus to declare the action of the respondent No.1 and his staff dated 22.12.2005 in orally asking them to surrender their premises bearing Old Door No.10/415 and 416, New No.10/1090 to 1092 situated Trunk Road, Kadapa of the first petitioner, Old Door No.7/33, New Door No.7/86 and 7/86/1, situated at Chilakalabavi Street, Trunk Road, Kadapa of the second petitioner, Old Door No.10/378 A1, New Door No.10/1028 situated at Trunk Road, Kadapa of the third petitioner and Door No.19/174 to 180/1 situated at Madras Road, Kadapa Town of the fourth petitioner as illegal and arbitrary.

Learned counsel for the petitioners submits that the petitioners are the owners of above said

premises in Kadapa town and municipality. The Kadapa municipality has been recently upgraded as Municipal Corporation. In view of the traffic congestion and to have free flow of traffic the Kadapa Municipal Corporation has decided to widen the roads, for which they have identified 26 roads in the entire kadapa municipal corporation. Learned counsel for the petitioners further submits that the petitioners are not at all against the road-widening programme of the respondents and they have no objection for the said programme if their lands are acquired and if proper compensation is paid.

The only grievance of the petitioners is that the respondents without issuing any notices, without paying any compensation for their structures or the lands and without following due process of law, are threatening to demolish the existing structures of the petitioners for the purpose of road-widening.

The learned counsel for the petitioners further submit that the action of respondents without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act, 1894 is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Municipal Corporation Act (for short 'the Act').

This Court disposed of number of writ petitions directing the respondents not to demolish the houses of the private citizens without following due process of law.

Having regard to the facts and circumstances of the case,
the writ petition is disposed of directing the respondents not to demolish the structures or take away any portion of the properties of the petitioners and not to dispossess them without following due process of law under Sections 146 and 147 of the Act or private negotiations or initiating the proceedings under the Land Acquisition Act. No costs.

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V. ESWARAIAH, J

December 26, 2005

Note: Furnish C.C. of the order in three days.

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DSK